

**ASSEMBLY BILL**

**No. 875**

**Introduced by Assembly Members Koretz and Jerome Horton  
(Coauthors: Assembly Members Chu, Hancock, and Leno)**

February 18, 2005

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An act to add Sections 511.1, 559, and 1197.2 to the Labor Code, relating to employee wages and working hours.

LEGISLATIVE COUNSEL'S DIGEST

AB 875, as introduced, Koretz. Employee wages and working hours: violators.

Existing law permits employees, upon the proposal of their employer, to adopt an alternative workweek that authorizes work by the employees for no longer than 10 hours per day within a 40-hour workweek without requiring payment of overtime compensation. Proposals for alternative workweeks may be adopted only if approved in a secret ballot election by at least  $\frac{2}{3}$  of the affected employees in a work unit. Existing law requires that the results of the election must be reported by the employer to the Division of Labor Statistics and Research within 30 days after the results are final.

This bill would require the Director of Industrial Relations to develop and provide to employers a form for reporting election results and would specify the information required to be contained in each report.

Existing law attributes various duties and requires private employers to perform certain activities with regard to employee wages, hours, and working conditions.

This bill would require the Economic and Employment Enforcement Coalition, in consultation with the Franchise Tax Board and the Joint Enforcement Strike Force on the Underground Economy, to develop

and implement sets of standards that, if met by an employer, would trigger recommendation for an audit by appropriate state tax authorities of employers in violation, and referral to the Labor Commissioner for investigation of violations, of statutes relating to employee wages, hours, and working conditions. After July 1, 2006, this bill would require the Labor Commissioner and state tax authorities to take specified actions to facilitate audits and investigations of employers who meet the standards required by this bill.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 511.1 is added to the Labor Code, to  
2 read:

3 511.1. The director shall develop and provide a form for  
4 employers to use to report the results of any election pursuant to  
5 subdivision (e) of Section 511. Each report shall describe the size  
6 of the unit, the date of the election, the final tally of the vote, the  
7 nature of the business, the form of the alternative workweek  
8 adopted, and other related matters as the director may prescribe.

9 SEC. 2. Section 559 is added to the Labor Code, to read:

10 559. (a) The Economic and Employment Enforcement  
11 Coalition, in consultation with the Franchise Tax Board and the  
12 Joint Enforcement Strike Force on the Underground Economy,  
13 shall, by July 1, 2006, develop and implement an appropriate set  
14 of standards that, if met by an employer, will trigger  
15 recommendation for an audit by appropriate state tax authorities  
16 of employers in violation of this chapter. The set of standards  
17 shall take into account, among other things, the severity and  
18 number of violations committed by an employer.

19 (b) The Economic and Employment Enforcement Coalition, in  
20 consultation with the Franchise Tax Board and the Joint  
21 Enforcement Strike Force on the Underground Economy, shall,  
22 by July 1, 2006, develop and implement an appropriate set of tax  
23 violation standards that, if met by an employer, will trigger  
24 referral to the Labor Commissioner for investigation for  
25 violations of this chapter.

1 (c) After July 1, 2006, the Labor Commissioner shall take all  
2 of the following actions with respect to an employer who has met  
3 the set of standards developed by the Economic and Employment  
4 Enforcement Coalition pursuant to subdivision (a):

5 (1) Notify the appropriate state tax authorities each time the  
6 set of standards is met by an employer.

7 (2) Provide the appropriate state tax authorities with the name  
8 of the employer and all relevant and necessary information  
9 regarding the violations.

10 (3) Make a recommendation to the appropriate state tax  
11 authorities that the employer be audited.

12 (d) The Labor Commissioner shall compile a list of referrals  
13 made to the appropriate state tax authorities under subdivision (c)  
14 on an annual basis. The list shall specify the name and tax  
15 identification number of each employer and the nature of the  
16 violations.

17 (e) After July 1, 2006, the appropriate state tax authorities  
18 shall take all of the following actions with respect to an employer  
19 who has met the set of standards developed by the Economic and  
20 Employment Enforcement Coalition pursuant to subdivision (b):

21 (1) Notify the Labor Commissioner each time the set of  
22 standards is met by an employer.

23 (2) Provide the Labor Commissioner with the name of the  
24 employer and all relevant and necessary information regarding  
25 the violations.

26 (3) Make a recommendation to the Labor Commissioner that  
27 the employer be investigated for violations of this chapter.

28 (f) The appropriate state tax authorities shall compile a list of  
29 referrals made to the Labor Commissioner under subdivision (e)  
30 on an annual basis. The list shall specify the name and tax  
31 identification number of each employer and the nature of the  
32 violations.

33 SEC. 3. Section 1197.2 is added to the Labor Code, to read:

34 1197.2. (a) The Economic and Employment Enforcement  
35 Coalition, in consultation with the Franchise Tax Board and the  
36 Joint Enforcement Strike Force on the Underground Economy,  
37 shall, by July 1, 2006, develop and implement an appropriate set  
38 of standards that, if met by an employer, will trigger  
39 recommendation for an audit by appropriate state tax authorities  
40 of employers in violation of this chapter. The set of standards

1 shall take into account, among other things, the severity and  
2 number of violations committed by an employer.

3 (b) The Economic and Employment Enforcement Coalition, in  
4 consultation with the Franchise Tax Board and the Joint  
5 Enforcement Strike Force on the Underground Economy, shall,  
6 by July 1, 2006, develop and implement an appropriate set of tax  
7 violation standards that, if met by an employer, will trigger  
8 referral to the Labor Commissioner for investigation for  
9 violations of this chapter.

10 (c) After July 1, 2006, the Labor Commissioner shall take all  
11 of the following actions with respect to an employer who has met  
12 the set of standards developed by the Economic and Employment  
13 Enforcement Coalition pursuant to subdivision (a):

14 (1) Notify the appropriate state tax authorities each time the  
15 set of standards is met by an employer.

16 (2) Provide the appropriate state tax authorities with the name  
17 of the employer and all relevant and necessary information  
18 regarding the violations.

19 (3) Make a recommendation to the appropriate state tax  
20 authorities that the employer be audited.

21 (d) The Labor Commissioner shall compile a list of referrals  
22 made to the appropriate state tax authorities under subdivision (c)  
23 on an annual basis. The list shall specify the name and tax  
24 identification number of each employer and the nature of the  
25 violations.

26 (e) After July 1, 2006, the appropriate state tax authorities  
27 shall take all of the following actions with respect to an employer  
28 who has met the set of standards developed by the Economic and  
29 Employment Enforcement Coalition pursuant to subdivision (b):

30 (1) Notify the Labor Commissioner each time the set of  
31 standards is met by an employer.

32 (2) Provide the Labor Commissioner with the name of the  
33 employer and all relevant and necessary information regarding  
34 the violations.

35 (3) Make a recommendation to the Labor Commissioner that  
36 the employer be investigated for violations of this chapter.

37 (f) The appropriate state tax authorities shall compile a list of  
38 referrals made to the Labor Commissioner under subdivision (e)  
39 on an annual basis. The list shall specify the name and tax

- 1 identification number of each employer and the nature of the
- 2 violations.

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